THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

Writ Petition No.35164 of 1998

Date:06.06.2007

Between

Chandramalla Suramma and others.

----------Petitioners

And

Mandal Revenue Officer, Mandapeta and others.

----------Respondents

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

Writ Petition No.35164 of 198

ORDER:

The petitioners were assigned about Ac.0.50 cents of land each in different Survey Numbers of Kesavaram Village, Mandapeta Mandal, East Godavari District in the year 1994. When they apprehended that they would be dispossessed from their lands, the petitioners approached this Court by filing W.P.No.19866 of 1995. The Writ Petition was disposed of by this Court, directing that the respondents shall not dispossess the petitioners, except by taking recourse to the procedure prescribed by law. Thereupon, the second respondent issued a show cause notice, dated 25.07.1996, directing the petitioners to explain as to why the pattas granted in their favour shall not be cancelled. The petitioners submitted their explanation. Not being satisfied with the explanation, the

second respondent cancelled the pattas, through proceedings, dated 29.03.1998. Aggrieved thereby, the petitioners preferred an appeal before the third respondent. The same was dismissed through order, dated 07.11.1998. Hence, this Writ Petition.

The petitioners contend that the show cause notice issued to them was silent as to the reasons, for which their pattas were proposed to be cancelled. It is also their case that the reasons mentioned by the original authority viz., second respondent for cancelling the pattas are totally different from those furnished by the third respondent, while dismissing the appeal. Several other contentions are also urged.

On behalf of respondents 1 to 3, a counter affidavit is filed, stating, *inter alia,* that an extent of Ac.5.24 cents, including the land assigned to the petitioners, was assigned to Field Labour Co-operative Society of that Village and on the Society being declared as defunct in the year 1993, the petitioners got the land assigned in their favour, even though the assignment in favour of the Society was in force. It is also stated that the petitioners were found to be ineligible for being assigned the land.

The Field Labour Cooperative Society got itself impleaded as respondent No.4 and filed a separate

counter affidavit. According to it, the petitioners had misled the authorities and got the land assigned in their favour, detrimental to the interests of Members of the Society.

Heard Sri K.Sarvabhouma Rao, the learned counsel for the petitioners, the learned Government Pleaders for Revenue & Assignment appearing for respondents 1 to 3 and Sri N.Siva Reddy, the learned counsel for respondent No.1.

It is a matter of record that the petitioners were assigned various extents of land in the year 1994. When they apprehended dispossession, the petitioners approached this Court by filing W.P.No.19866 of 1995. The Writ Petition was disposed of, directing that the petitioners shall not be dispossessed, except by following the procedure prescribed by law. It was in this context that the second respondent issued show cause notice to the petitioners.

A perusal of the show cause notice discloses that reference was made to the 4th respondent- Society having been declared as defunct and the pattas being granted in favour of the petitioners, which are part of the land earmarked for the Society. However, when it came to the question of directing the petitioners to submit

explanations, no reason, worth its name, was mentioned in the show cause notice. Unless any reason, that warrants cancellation of pattas, is indicated, the petitioners were not expected to submit their explanation. The grounds for cancellation can be either attributable to the petitioners or arising out of the legal implications. The show cause notice was silent about any reason.

In his order, the second respondent has traced the entire history relating to the assignment in favour of the 4th respondent-Society, on the one hand, and the petitioners, on the other, and framed 5 points for his decision. None of them is traceable to the show cause notice. The petitioners preferred an appeal before the third respondent, against the order passed by the 2nd respondent cancelling their pattas.

The third respondent, surprisingly, has chosen altogether different reasons for justifying the cancellation of pattas. He had undertaken guesswork as to the probable income of the petitioners and their spouses and held that they are ineligible to be assigned the land. He did not take into account, the facts that emerged as on the date of assignment, nor were the petitioners put on notice about such allegations. Viewed from any angle, the cancellation of pattas of the petitioners cannot be

sustained.

Hence, the writ petition is allowed and the orders passed by respondents 2 and 3 are set aside. It is, however, made clear that in case, the pattas granted in favour of the petitioners suffer from any legal or factual infirmity, it shall be open to respondents 1 to 3 to issue show cause notice, indicating the specific reasons for their proposed action, and to take steps in accordance with law. There shall be no order as to costs.

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06.06.2007

JSU